

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

UNITED STATES OF AMERICA

**Resentencing JUDGMENT IN A CRIMINAL CASE**

v..

**EARNEST HICKLES**

Case Number: 03-CR-244

USM Number: 04666-089

Christopher D. Donovan

Defendant's Attorney

Elizabeth M. Blackwood

Assistant United States Attorney

U.S. DIST. COURT EAST DIST. WISC.  
FILED  
**DEC 21 2007**  
AT 10 O'CLOCK M  
JON W. SANFILIPPO, CLERK

**Reason for Amendment:**

- Correction of Sentence on Remand (18 U.S.C. 3742(f)(1) and (2))
- Reduction of Sentence for Changed Circumstances (Fed.R.Crim.P.35(b))
- Correction of Sentence by Sentencing Court (Fed.R.Crim.P.35(c))
- Correction of Sentence for Clerical Mistake (Fed.R.Crim.P.36)

- Modification of Supervision Conditions (18 U.S.C. § 3563(c) or 3583(e))
- Modification of Imposed Term of Imprisonment for Extraordinary and Compelling Reasons (18 U.S.C. § 3582(c)(1))
- Modification of Imposed Term of Imprisonment for Retroactive Amendment(s) to the Sentencing Guidelines (18 U.S.C. § 3582(c)(2))
- Direct Motion to District Court Pursuant to  28 U.S.C. § 2255 or  18 U.S.C. § 3559(c)(7)
- Modification of Restitution Order(18 U.S.C. § 3664)

**THE DEFENDANT:**

- pleaded guilty on January 27, 2004, to count two of the two-count Indictment.
- pleaded nolo contendere to count(s) \_\_\_\_\_ which was accepted by the court.
- was found guilty on count(s) \_\_\_\_\_ after a plea of not guilty.

Accordingly, the defendant is adjudicated guilty of the following offense:

Title & Section	Nature of Offense	Offense Ended	Count
21 U.S.C. §§ 841(a)(1) and (b)(1)(A)	Distribution of 50 grams or more of cocaine base	March 2, 2000	One

The defendant is sentenced as provided in Pages 2 through 6 of this judgment. The sentence is imposed pursuant to the Sentencing Reform Act of 1984.

- The defendant has been found not guilty on count(s) \_\_\_\_\_
- Count one of the two-count Indictment  is  are dismissed on the motion of the United States.

It is ordered that the defendant must notify the United States attorney for this district within 30 days of any change of name, residence, or mailing address until all fines, restitution, costs, and special assessments imposed by this judgment are fully paid. If ordered to pay restitution, the defendant must notify the court and the United States attorney of material changes in economic circumstances.

December 14, 2007

Date of Imposition of Judgment for Resentencing

Signature of Judicial Officer

C. N. Clevert, Jr., U. S. District Judge

Name & Title of Judicial Officer

**Defendant: Earnest Hickles**  
**Case Number: 03-CR-244**

### **IMPRISONMENT**

The defendant is hereby committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of **\*fifty-seven (57) months as to count two of the two-count Indictment.**

- The court makes the following recommendations to the Bureau of Prisons:  
\* Consider immediate discharge to a pre-release center in the district of release
- The defendant is remanded to the custody of the United States Marshal.
- The defendant shall surrender to the United States Marshal for this district.
  - at \_\_\_\_\_  a.m.     p.m. on \_\_\_\_\_.
  - as notified by the United States Marshal.
- The defendant shall surrender for service of sentence at the institution designated by the Bureau of Prisons.
  - before 2 p.m. on \_\_\_\_\_.
  - as notified by the United States Marshal.
  - as notified by the Probation or Pretrial Services Office.

### **RETURN**

I have executed this judgment as follows:

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Defendant delivered on \_\_\_\_\_ to \_\_\_\_\_  
a \_\_\_\_\_, with a certified copy of this judgment.

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UNITED STATES MARSHAL

By \_\_\_\_\_  
DEPUTY UNITED STATES MARSHAL

**Defendant: Earnest Hickles**  
**Case Number: 03-CR-244**

### **SUPERVISED RELEASE**

Upon release from imprisonment, the defendant shall be placed on supervised release for a term of **five (5) years as to count one of the two-count Indictment.**

The defendant must report to the probation office in the district to which the defendant is released within 72 hours of release from the custody of the Bureau of Prisons.

The defendant shall not commit another federal, state or local crime.

The defendant shall not illegally possess any controlled substance. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from imprisonment and at least two periodic drug tests thereafter as directed.

- The above drug testing condition is suspended based on the court's determination that the defendant poses a low risk of future substance abuse. (Check, if applicable.)
- The defendant shall not possess a firearm, ammunition, destructive device, or any other dangerous weapon. (Check, if applicable.)
- \* The defendant shall cooperate in the collection of DNA as directed by the probation officer. (Check, if applicable.)
- The defendant shall register with the state sex offender registration agency in the state where the defendant resides, works, or is a student, as directed by the probation officer. (Check, if applicable.)
- The defendant shall participate in an approved program for domestic violence. (Check, if applicable.)

If this judgment imposes a fine or restitution, it is a condition of supervised release that the defendant pay in accordance with the Schedule of Payments sheet of this judgment.

The defendant must comply with the standard conditions that have been adopted by this court as well as with any additional conditions on the attached page.

### **STANDARD CONDITIONS OF SUPERVISION**

- 1) the defendant shall not leave the judicial district without permission of the court or probation officer;
- 2) the defendant shall report to the probation officer and shall submit a truthful and complete written report within the first five days of each month;
- 3) the defendant shall answer truthfully all inquiries by the probation officer and follow the instructions of the probation officer;
- 4) the defendant shall support his or her dependents and meet other family responsibilities;
- 5) the defendant shall work regularly at a lawful occupation, unless excused by the probation officer for schooling, training, or other acceptable reasons;
- 6) the defendant shall notify the probation officer at least ten days prior to any change in residence or employment;
- 7) the defendant shall refrain from excessive use of alcohol and shall not purchase, possess, use, distribute, or administer any controlled substance or any paraphernalia related to any controlled substances, except as prescribed by a physician;
- 8) the defendant shall not frequent places where controlled substances are illegally sold, used, distributed, or administered;
- 9) the defendant shall not associate with any persons engaged in criminal activity, and shall not associate with any person convicted of a felony, unless granted permission to do so by the probation officer;
- 10) the defendant shall permit a probation officer to visit him or her at any time at home or elsewhere and shall permit confiscation of any contraband observed in plain view by the probation officer;
- 11) the defendant shall notify the probation officer within seventy-two hours of being arrested or questioned by a law enforcement officer;
- 12) the defendant shall not enter into any agreement to act as an informer or a special agent of a law enforcement agency without the permission of the court;
- 13) as directed by the probation officer, the defendant shall notify third parties of risks that may be occasioned by the defendant's criminal record or personal history or characteristics and shall permit the probation officer to make such notification and to confirm the defendant's compliance with such notification requirement.

**Defendant: Ernest Hickles**  
**Case Number: 03-CR-244**

#### **ADDITIONAL CONDITIONS OF SUPERVISED RELEASE**

1. Within 72 hours of release from the custody of the Bureau of Prisons, the defendant shall report in person to the probation office in the district to which the defendant is released.
2. The defendant shall not possess any firearms or other dangerous weapons as such possession will result in revocation of the supervision term and subject the defendant to a further term of incarceration.
3. Pursuant to the Violent Crime Control and Law Enforcement Act of 1994, the defendant shall not illegally possess or unlawfully use any controlled substance. Such illegal possession or unlawful use will result in revocation of the supervision term and subject the defendant to a further term of incarceration.
4. The defendant shall participate in a program of testing and residential or outpatient treatment for drug and alcohol abuse, as approved by his probation officer, until such time as he is released from such program. The defendant shall pay the cost of this program under the guidance and supervision of his supervising probation officer. The defendant shall refrain from the use of all alcoholic beverages throughout the supervised release term.
- \*5. The defendant shall repay the buy money \*(balance of \$6,005.00) to the Federal Bureau of Investigation, Milwaukee Office, 330 E. Kilbourn Avenue, Milwaukee, Wisconsin 53202, at a rate of not less than \$50.00 per month. The defendant shall apply 100% of his yearly federal and state tax refunds toward payment of restitution (the buy money). The defendant shall not change exemptions without prior notice to the supervising probation officer.
6. Until the defendant has satisfied all financial obligations in this case, he shall not open any new lines of credit, lease any vehicle or other property, or use existing credit resources without the prior approval of the supervising probation officer.
7. The defendant shall provide access to all financial information requested by the supervising probation officer including, but not limited to, bank statements and copies of all federal and state income tax returns. All tax returns shall be filed in a timely manner, with copies provided to the supervising probation officer immediately upon filing. The defendant shall also submit monthly financial reports to the supervising probation officer.
8. The defendant shall cooperate with the Child Support Enforcement Unit in payment of any child support or arrears and to make regular payments under the guidance and supervision of the supervising probation officer.
- \*9. The defendant shall cooperate in the collection of DNA under the guidance and supervision of the supervising probation officer.
- \*10. The defendant shall participate in a mental health treatment program and shall take any and all prescribed medications as directed by the treatment provider and participate in any psychological/psychiatric evaluation and counseling as approved by the supervising probation officer.

**Defendant: Earnest Hickles**  
**Case Number: 03-CR-244**

### CRIMINAL MONETARY PENALTIES

The defendant must pay the total criminal monetary penalties under the schedule of payments on Sheet 6.

	<u>Assessment</u>	<u>Fine</u>	<u>Restitution</u>	<u>Buy Money</u>
<b>Totals:</b>	<b>\$ 100.00 (Paid in full)</b>	None	None	<b>\$6300.00 (Balance is \$6,005.00)</b>

- The defendant shall repay the buy money as a condition of supervised release.
- The determination of restitution is deferred until \_\_\_\_\_. An *Amended Judgment in a Criminal Case* (AO 245C) will be entered after such determination.
- The defendant must make restitution (including community restitution) to the following payees in the amount listed below.

If the defendant makes a partial payment, each payee shall receive an approximately proportioned payment, unless specified otherwise in the priority order or percentage payment column below. However, pursuant to 18 U.S.C. § 3664(i), all non-federal victims must be paid before the United States is paid.

<u>Name of Payee</u>	<u>Total Loss*</u>	<u>Restitution Ordered</u>	<u>Priority or Percentage</u>
Totals:	\$ _____	\$ _____	

- Restitution amount ordered pursuant to plea agreement \$\_\_\_\_\_
- The defendant must pay interest on restitution and a fine of more than \$2,500, unless the restitution or fine is paid in full before the fifteenth day after the date of the judgment, pursuant to 18 U.S.C. § 3612(f). All of the payment options on Sheet 6 may be subject to penalties for delinquency and default, pursuant to 18 U.S.C. § 3612(g).
- The court determined that the defendant does not have the ability to pay interest, and it is ordered that:
  - the interest requirement is waived for the  fine  restitution  buy money.
  - the interest requirement for the  fine  restitution is modified as follows:

\*Findings for the total amount of losses are required under Chapters 109A, 110, 110A, and 113A of Title 18 for offenses committed on or after September 13, 1994, but before April 23, 1996.

**Defendant: Earnest Hickles**  
**Case Number: 03-CR-244**

## SCHEDULE OF PAYMENTS

Having assessed the defendant's ability to pay, payment of the total criminal monetary penalties shall be due as follows:

**The lump sum payment of \$100.00 for the Special Assessment has been paid in full.**

**The defendant's obligation to repay the buy money is a condition of supervised release.**

The defendant shall receive credit for all payments previously made toward any criminal monetary penalties imposed.

Joint and Several

Defendant and Co-Defendant Names, Case Numbers (including defendant number), Total Amount, Joint and Several Amount, and corresponding payee, if appropriate:

The defendant shall pay the cost of prosecution.

The defendant shall pay the following court cost(s):

The defendant shall forfeit his/her interest in the following property to the United States:

Payments shall be applied in the following order: (1) assessment, (2) restitution principal, (3) restitution interest, (4) fine principal, (5) fine interest, (6) community restitution, (7) penalties, and (8) costs, including cost of prosecution and court costs.